IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 5442 of 2007(W)

PETITIONER:

K.K.SANITHA, AGED 35 YEARS,ASSISTANT TEACHER,A.L.P.S., KARAMAL, ANNUR (P.O), PAYYANNUR VIA, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.TOJAN J. VATHIKULAM

RESPONDENTS:

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1. THE ASSISTANT EDUCATIONAL OFFICER, PAYYANNUR, KANNUR.

2. THE HEADMISTRESS, A.L.P SCHOOL, KARAMEL, ANNUR P.O, PAYANNUR (VIA), KANNUR.

3. STATE OF KERALA REP.BY SECRETARY TO GOVERNMENT, DEPARTMENT OF GENERAL EDUCATION, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT. M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: A true copy of the Government Order dated 4.10.1996.

Ext.P2: True copy of the Form of option for senior grade dated 14.6.2006.

Ext.P3: True copy of the statement showing fixation of pay in the senior grade dated 20.7.2006.

Ext.P4: True copy of the endorsement bearing No.A/2933/06 dated 26.7.2006.

Ext.P5: True copy of the circular No.38/02 dated 3.6.2002.

Ext.P6: A true copy of the representation dated 22.8.2006.

Ext.P7: A true copy of the communication bearing No.A.3502/2006 dated 30.1.2006.

// True copy //

P.A. to Judge

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A.K.BASHEER, J.

W.P.(C)No.5442 OF 2007

Dated this the 31st day of May, 2007

JUDGMENT

Petitioner had availed of leave without allowance to pursue her study for B.Ed. Course. Leave was sanctioned and thereafter on completion of her studies she had rejoined duty and she was given her service benefits including first higher grade on completion of ten years reckoning the period of leave without allowance as eligible leave for all such benefits. However, when the petitioner submitted Ext.P2 Form of option for senior grade on completion of 16 years in the year 2006, objection has been raised by respondent no.1 stating that petitioner would not be entitled to get the service benefits for the period availed of by her as leave without allowance to pursue her studies. Learned counsel submits that the issue is squarely covered in favour of the petitioner in view of the judgment of this court in W.P.(C)No.26782/05 as well as in **Deepika v. State of Kerala [2007 (1) KLT 71]**. The grievance of the

petitioner is that the impugned order has been issued without adverting to the dictum laid down by this court in the above two judgments, and also Ext.P5 circular issued by the Government. He therefore impugns Ext.P4 endorsement and Ext.P7.

In the above facts and circumstances, Exts.P4 and P7 are quashed. The 1st respondent shall reconsider matter in the light of the two judgments referred to above and also Ext.P5 circular. This shall be done as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment after affording sufficient opportunity to the petitioner to be heard. Petitioner shall produce a certified copy of this judgment along with a copy of the writ petition before the 1st respondent for compliance.

A.K.BASHEER, JUDGE

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